

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAUREN IVISON,

Plaintiff,

-against-

EXTEND FERTILITY, LLC,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/24/2024

23-CV-4503 (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge

The Court declines to so-order the proposed Confidentiality Agreement and Order (Prop. Conf. Ag.) (Dkt. 68) in its present form.

First, as the parties may be aware, courts in this district routinely disallow unilateral efforts to redact portions of otherwise-discoverable documents for reasons other than privilege, *see, e.g., Al Thani v. Hanke*, 2022 WL 1684271, at *1-2 (S.D.N.Y. May 26, 2022) (collecting cases), particularly where a protective order permits the producing party to designate any proprietary or competitively sensitive information as "confidential" or "highly confidential" and restrict it accordingly. *Id.* at *2. Here, both sides are willing to permit redactions for "non-responsive and/or irrelevant highly Confidential Information." Prop. Conf. Ag. ¶ 5. They may do so. However, they may not increase the burden on the Court by making *in camera* review the default solution to any dispute concerning the propriety of the redactions.

Second, as the parties should be aware, filing any judicial document under seal requires permission of the Court. Moses Ind. Prac. § 3; S.D.N.Y. ECF Rules & Insts. § 6. "To be approved, any sealing or redaction of a court filing must be narrowly tailored to serve the purpose that requires the sealing or redaction and must be otherwise consistent with the presumption in favor of public access to judicial documents described in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006)." Moses Ind. Prac. § 3(e). The parties are cautioned that the designation of documents as "confidential" for discovery purposes does not, without more, justify a sealing or redaction order." *Id.*; *see also* Moses Model Prot. Order (available at <https://nysd.uscourts.gov/hon-barbara-moses>) ¶ 8. Consequently, the parties may not stipulate, in advance, that any and all documents containing information designated Confidential by a party "shall be filed under seal." Prop. Conf. Ag. ¶ 10.

Dated: New York, New York
June 24, 2024

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge